

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 **In the matter of:**

9 **RETIREMENT PLANNING CENTER,**
10 an Arizona general partnership,
11 13576 W. Camino Del Sol, Suite 24
12 Sun City West, AZ 85375

13 **JOHN F. KLATT,** a married man
14 7650 W. McRae Way
15 Glendale, AZ 85308

16 **MARILYN A. KLATT,** a married woman
17 7650 W. McRae Way
18 Glendale, AZ 85308

19 Respondents.

) DOCKET NO. S-03499A-04-0000
)

) DECISION NO. 67606
)

) **ORDER TO CEASE AND DESIST,**
) **ORDER OF DISGORGEMENT,**
) **ORDER FOR ADMINISTRATIVE**
) **PENALTIES, AND CONSENT TO SAME**
) **BY: RETIREMENT PLANNING**
) **CENTER, JOHN F. KLATT and**
) **MARILYN A. KLATT**

20 Respondents RETIREMENT PLANNING CENTER, an Arizona general partnership, JOHN
21 K. KLATT and MARILYN A. KLATT elect to permanently waive any right to a hearing and
22 appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.*
23 (“Securities Act”) with respect to this Order to Cease and Desist, Order of Disgorgement, Order
24 for Administrative Penalties and Consent to Same (“Order”). RESPONDENTS admit the
25 jurisdiction of the Arizona Corporation Commission (“Commission”); neither admit nor deny the
26 Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this
Order by the Commission.

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FINDINGS OF FACT

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2 1. Respondent RETIREMENT PLANNING CENTER, an Arizona general partnership
3 (“RPC”) is a retirement planning business located at 13576 W. Camino Del Sol, Suite 24, Sun City
4 West, Arizona 85375. RPC, owned and operated by Respondents JOHN F. KLATT and MARILYN
5 A. KLATT, husband and wife, along with their daughter and son-in-law, engages in the sale of
6 insurance products together with providing a variety of other estate planning services. At no time was
7 RPC registered with the Division.

8 2. Respondent JOHN F. KLATT (“KLATT”), whose last known address is 7650 W.
9 McRae Way, Glendale, Arizona 85308, is a partner of RPC. At all times relevant hereto, KLATT
10 served with RPC as a general partner, certified senior advisor, and an insurance agent licensed
11 with the State of Arizona. At no time was KLATT registered with the Division.

12 3. Respondent MARILYN A. KLATT, whose last known address is 7650 W. McRae
13 Way, Glendale, Arizona 85308, is the spouse of KLATT and, at all relevant times hereto, was a
14 general partner of RPC.

15 4. At all times relevant hereto, KLATT and MARILYN A. KLATT were acting for their
16 own benefit, and for the benefit or in furtherance of their marital community.

17 5. Mutual Benefits Corporation (“MBC”) is a viatical settlement provider company
18 located at 2881 E. Oakland Park Blvd., Suite 200, Ft. Lauderdale, Florida 33306. MBC sold viatical
19 and life settlements (collectively, “viaticals”) to investors through agents such as insurance and
20 securities persons.

21 6. From approximately 1995 through January 2003, MBC sold viaticals through
22 individual and business entity agents to Arizona investors.

23 7. From approximately July 1999 through July 2001, RPC, by and through its agents,
24 and KLATT offered and sold approximately 155 MBC viaticals to at least 54 known investors.
25 The principal amount of these investments totaled at least \$1,836,101.55. MBC paid RPC which,
26

1 in turn, paid KLATT at least \$157,944.02 in direct and override commissions for these Arizona
2 sales.

3 8. The RESPONDENTS' viatical sales were not registered as securities nor were they
4 exempt from registration.

5 9. At all times relevant, MBC was not registered as a securities dealer in Arizona and
6 RESPONDENTS (and their agents) were not registered as securities salesmen in Arizona nor were
7 they exempt from registration.

8 II.

9 CONCLUSIONS OF LAW

10 1. RESPONDENTS offered or sold securities within or from Arizona, within the meaning
11 of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

12 2. RESPONDENTS violated A.R.S. § 44-1841 by offering or selling securities that were
13 neither registered nor exempt from registration.

14 3. RESPONDENTS violated A.R.S. § 44-1842 by offering or selling securities while
15 neither registered as dealers or salesmen nor exempt from registration.

16 4. RESPONDENTS' conduct is grounds for a cease and desist order pursuant to A.R.S. §
17 44-2032.

18 5. RESPONDENTS' conduct is grounds for administrative penalties under A.R.S. § 44-
19 2036.

20 III.

21 ORDER

22 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and the
23 RESPONDENTS consent to the entry of this Order, the Commission finds that the following relief
24 is appropriate, in the public interest, and necessary for the protection of investors:

25 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS, their agents,
26 employees, successors and assigns, permanently cease and desist from violating the Securities Act.

1 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that RESPONDENTS shall,
2 jointly and severally, disgorge all sales commissions earned in connection with KLATT'S sales
3 activities (and the sales by sales agents recruited by KLATT) in this matter; as reflected in the
4 records of the Commission, such disgorgement shall be the in the amount of \$157,944.02
5 ("Disgorgement").

6 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that RESPONDENTS shall,
7 jointly and severally, pay an administrative penalty in the amount of \$10,000.00 ("Penalty").

8 The payment of Disgorgement and Penalty shall be made as follows: (a) Ten Thousand
9 Dollars (\$10,000.00) upon entry of this Order; and (b) the remaining balance of Disgorgement and
10 Penalty ("Outstanding Balance") shall be repaid in equal monthly installments of One Thousand
11 Dollars (\$1,000.00) on the first of each month starting April 1, 2005 and continuing until the
12 Outstanding Balance and all accrued interest have been repaid in full. Interest on the Outstanding
13 Balance shall be amortized over a thirty (30) year period at the rate of 6.5% per annum. All
14 payments shall be first applied to interest on the Outstanding Balance, then to Disgorgement, and
15 finally to Penalty.

16 Payment shall be made by cashier's check or money order payable to the "State of
17 Arizona" to be placed in an interest-bearing account maintained and controlled by the Arizona
18 Attorney General. The Arizona Attorney General shall disburse the Disgorgement funds on a pro
19 rata basis to all known investors who acquired their viatical policy from RPC as a result of
20 KLATT'S sales activities and who, as of the entry of this Order, retain one or more viatical policy
21 interests that has yet to mature. Any funds that the Attorney General is unable to disburse shall
22 revert to the state of Arizona.

23 For the purposes of this Order, a bankruptcy filing by either RESPONDENT shall be
24 considered an act of default on KLATT'S disgorgement obligations.

25 If either RESPONDENT does not comply with the terms and conditions of this
26 administrative penalty, the Outstanding Balance shall be deemed in default and shall become

immediately due and payable and payable shall accrue interest at the rate of 10% per annum until paid in full.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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|---------------------------------|---------------------------|---------------------|
| <u>/s/ Jeffrey Hatch-Miller</u> | <u>William A. Mundell</u> | <u>Marc Spitzer</u> |
| CHAIRMAN | COMMISSIONER | COMMISSIONER |
| <u>Lowell Gleason</u> | <u>Kristin Mayes</u> | |
| COMMISSIONER | COMMISSIONER | |

IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
Executive Secretary of the Arizona Corporation
Commission, have hereunto set my hand and caused the
official seal of the Commission to be affixed at the
Capitol, in the City of Phoenix, this 25th day of
February, 2005.

/s/ Brian c. McNeil
BRIAN C. McNEIL
Executive Secretary

DISSENT

DISSENT

This document is available in alternative formats by contacting Linda Hogan, Executive Assistant to the Executive Secretary, phone number (602) 542-3931, E-mail LHogan@cc.state.az.us.

(JC)

CONSENT TO ENTRY OF ORDER

1. RETIREMENT PLANNING CENTER, a general partnership, and JOHN F. KLATT and MARILYN A. KLATT, husband and wife, including their marital community, (collectively, "RESPONDENTS") admit the jurisdiction of the Commission over the subject matter of this proceeding. RESPONDENTS acknowledge that they have been fully advised of their right to a hearing to present evidence and call witnesses and knowingly and voluntarily waive any and all rights to a hearing before the Commission and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order to Cease and Desist, Order of Disgorgement, Order for Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the Commission.

2. RESPONDENTS knowingly and voluntarily waive any right under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting from the entry of this Order.

3. RESPONDENTS acknowledge and agree that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

4. RESPONDENTS acknowledge and agree that by signing this Order to recognize any and all obligations, liabilities, responsibilities, and encumbrances as set forth in this Order, and each of them agree that said obligations, liabilities, responsibilities, and encumbrances are nondischargeable under 11.U.S.C. §§523(a)(2), (7) and (19).

5. RESPONDENTS acknowledge that they have been represented by counsel in this matter and that they have reviewed this Order with their attorney and understands all terms contained therein.

6. RESPONDENTS neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order. RESPONDENTS agree that it shall not challenge their validity in any present or future administrative proceeding before the Commission or any other state agency

1 concerning the denial or issuance of any license or registration required by the State to engage in
2 the practice of any business or profession.

3 7. By consenting to the entry of this Order, RESPONDENTS agree not to take any
4 action or to make, or permit to be made, any public statement denying, directly or indirectly, any
5 Finding of Fact or Conclusion of Law contained in this Order, or to create the impression that this
6 Order is without factual basis. Notwithstanding the foregoing, this Order is not intended to
7 collaterally estop, factually bind or preclude the RESPONDENTS from defending themselves in
8 any administrative, civil or criminal proceedings to which the Commission is not a party.
9 RESPONDENTS shall undertake steps necessary to assure that all of their agents and employees
10 understand and comply with this agreement.

11 8. While this Order settles this administrative matter between the RESPONDENTS
12 and the Commission, RESPONDENTS understand that this Order does not preclude the
13 Commission from instituting other administrative proceedings based on violations that are not
14 addressed by this Order.

15 9. RESPONDENTS understand that this Order does not preclude the Commission
16 from referring this matter to any governmental agency for administrative, civil, or criminal
17 proceedings that may be related to the matters addressed by this Order.

18 10. RESPONDENTS understand that this Order does not preclude any other agency or
19 officer of the state of Arizona or its subdivisions from instituting administrative, civil or criminal
20 proceedings that may be related to matters addressed by this Order.

21 11. RESPONDENTS agrees that they will not apply to the state of Arizona for
22 registration under the Securities Act of Arizona or under the Arizona Investment Management
23 Act for at least one year from the entry date of this Order *and* until such time as all each of them
24 have complied with all terms and conditions of this Order, including the payment in full of all
25 disgorgement amounts and administrative penalties promulgated under this Order.
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12. RESPONDENTS agrees that they will not exercise any control over any entity that offers or sells securities or provides investment advisory services, within or from Arizona, until such time that he has (a) complied with all terms and conditions promulgated under this Order, and (b) obtained the legal authority to do so.

13. RESPONDENTS agree that until disgorgement and penalties are paid in full, each of them shall notify the Director of the Securities Division within 30 days of any change in home address or any change in any of their ability to pay amounts due under this Order.

14. RESPONDENTS understand that a default shall render them liable to the Commission for its costs of collection and interest at the maximum legal rate.

15. RESPONDENTS understand and agree that each of them shall cooperate fully with the Securities Division by, without limitation, providing information pertinent to any related investigation and, if necessary, presenting complete and accurate testimony at any related hearing. RESONDENTS agrees that each of them shall similarly cooperate with any other agency of the state of Arizona in any investigation or in any other matter arising from the activities described in this Order.

16. Respondents JOHN F. KLATT and MARILYN A. KLATT acknowledge that any penalties imposed by this Order are obligations of JOHN F. KLATT and MARILYN A. KLATT as well as the marital community.

17. RESPONDENTS consent to the entry of this Order and agrees to be fully bound by its terms and conditions. *If any of the RESPONDENTS breaches any provision of this Order, the Commission may vacate this Order and restore this case to its active docket.*

Agreed: /s/ John F. Klatt
JOHN F. KLATT, a married man

Agreed: /s/ Marilyn A. Klatt
MARILYN A. KLATT, a married woman

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Agreed: RETIREMENT PLANNING CENTER, a
general partnership

By: /s/ John J. Klatt
JOHN F. KLATT, partner

SUBSCRIBED AND SWORN TO before me, by JOHN F. KLATT and MARILYN A.
KLATT, husband and wife, this 7th day of February, 2005.

/s/
NOTARY PUBLIC

My Commission Expires:
6/26/07

SUBSCRIBED AND SWORN TO before me, by JOHN F. KLATT, as partner of
RETIREMENT PLANNING CENTER, a general partnership, this 7th day of February, 2005.

/s/
NOTARY PUBLIC

My Commission Expires:
6/26/07